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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,846	12/08/2003	Frederic Simonet	06028.0037-00	9233
22852	7590	11/10/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			ELHILO, EISA B	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/728,846	Applicant(s) SIMONET ET AL.	
	Examiner Eisa B. Elhilo	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 1-89 are pending in this application.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-32, 44-46 and 50-89 are rejected under 35 U.S.C. 102(b) as being anticipated by Cottard et al. (US 2001/0023514 A1).

Cottard et al. (US' 514 A1) teaches a composition for oxidation dyeing of hair comprising oxidation bases chosen from para-phenylenediamines of a formula (I) as claimed in claims 1-3 and 50-54 (see page 6, formula I), double bases of a formula (II) as claimed in claim 55 (see page 6, formula II), para-aminophenols of a formula (III) as claimed in claims 56-57 (see page 7, formula III), heterocyclic bases as claimed in claim 58 (see page 7, paragraph, 0140), wherein the oxidation bases are presented in the claimed amounts as claimed in claims 59-60 (see page 8, paragraph, 0160), at least one associative polymer of fatty chain anionic associative polymer as claimed in claims 20-23 (see page 3, paragraphs, 0050-0057), acrylic terpolymer and copolymers as claimed in claims 24-29 (see page 4, paragraphs, 0065-0088 and page 5, paragraphs, 0089-0090), associative cationic polymers of quaternized celluloses modified with groups comprising at least one associative cationic polymer as claimed in claims 30-32 (see page 5, paragraphs, 0097-0104), wherein the associative cationic polymer is presented in the amounts of 0.01 to 10% and 0.1 to 5% as claimed in claims 44-46 (see page 5, paragraph, 0108), cellulose

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thickeners (nonionic cellulose-based compounds) chosen from hydroxyethylcellulose and hydroxypropylcellulose in the claimed amounts as claimed in claims 1 and 4-7 (see page 17, paragraphs, 0340 and 0341), cationic polymers of dimethyldiallyammonium chloride homopolymers in the claimed amounts as claimed in claims 1 and 8-12 (see page 10, paragraph, 0206 and page 12, formulae (W) and (U) and paragraph, 0245), at least one thickening polymers chosen from anionic, nonionic and cationic comprising at least one hydrophilic unit and at least one fatty chain ally ether unit as claimed in claims 13-19 (see page 2, paragraphs, 0040-0045), couplers chosen from meta-phenylenediamines presented in the claimed amounts as claimed in claims 61-63 (see page 8, paragraphs, 0162 and 0163), acid addition salts of chosen from hydrochlorides and hydrobromides as claimed in claims 64-65 (see page 8, paragraph, 0164), direct dyes as claimed in claim 66 (see page 8, paragraph, 0164), amphoteric polymers presented in the amounts of 0.01 to 10%, 0.05 to 5% and 0.1 to 3% as claimed in claims 67-70 (see page 16, paragraph, 0315), surfactants in the amounts of 0.01 to 40% as claimed in claims 71-74 (see page 16, paragraph, 0323 and page 17, paragraph, 0339), guar gum thickeners in the amounts of 0.01 to 10% as claimed in claims 75-77 (see page 17, paragraphs, 0340 and 0341), reducing agent in the amounts of 0.05 to 1.5 % as claimed in claim 78 (see page 17, paragraph, 0346), wherein the composition also comprises hydrogen peroxide in the amount of 1 to 40 volumes as an oxidizing agent as claimed in claims 79-82 (see page 17, paragraph, 0349), wherein the composition has a pH in the range of 6-11 as claimed in claim 83 (see page 18, paragraph, 0351). Cottard et al. (US' 514 A1) also teaches a process for oxidation dyeing of keratin fibers and a multi-compartment device comprising the dyeing composition as described above and as claimed

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in claims 84-89 (see page 23, claims 72-86). Cottard et al. (US' 514 A1) teaches all the limitations of the instant claims. Hence, Cottard et al. (US' 514 A1) anticipates the claims.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-43, 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cottard et al. (US 2001/0023514 A1) in view of Laurent et al. (US 2002/0046431 A1).

Cottard et al. (US' 514 A1) teaches a composition for oxidation dyeing of hair comprising oxidation bases (see page 5, paragraph, 0110), at least one associative cationic polymers (see page 5, paragraph, 0097), cellulose thickeners (nonionic cellulose-based compounds)(see page 17, paragraphs, 0340 and 0341) and cationic polymers (see page 10, paragraph, 0206).

The instant claims differ from the reference by reciting specific species of cationic polyurethane as an associative cationic polymer.

However, the reference clearly suggests the use of associative cationic polymers such as quaternized cellulose in the dyeing composition (see page 5, paragraph, 0099).

Laurent et al. (US' 431 A1) in analogous art of hair dyeing formulation, teaches a composition comprising a cationic polyurethane of a formula (Ia), which is similar to the claimed formula (Ia) as claimed in claims 33-36 and 47 (see page 3, paragraphs, 0096-0105), wherein the monomer comprises 0.1 to 10% by weight as claimed in claim 37 (see page 8, paragraph, 0202),

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wherein the cationic amphiphilic polyurethane comprises a monomers chosen from formulae (Ib) and (IIb) as claimed in claim 38 (see page 6, paragraph, 0157), wherein the monomer chosen from a monomer dimethylaminopropyl-methacrylamide and acrylamidopropyltrimethylammonium chloride as claimed in claims 39-40 (see page 7, paragraph, 0191 and page, 18, paragraph, 0402), wherein the monomer chosen from acrylic acid, methacrylic acid as claimed in claim 41 (see page 8, paragraph, 0208) and wherein the monomer chosen from (C₁₀-C₃₀)alkyl acrylates as claimed in claims 42-43 (see page 8, paragraph, 0211).

Therefore, in view of teaching of the secondary reference, one having ordinary skill in the art at the time the invention was made would be motivated to modify the composition of Cottard et al. (US' 514 A1) by incorporating the cationic polyurethane as taught by Laurent et al. (US' 431 A1) to make such a composition. Such a modification would be obvious because Cottard et al. (US' 514 A1) as a primary reference clearly suggests the use of cationic polymers in a hair dyeing composition (see page 8, paragraph, 0167). Laurent et al. (US' 431 A1) as a secondary reference clearly teaches the claimed cationic polyurethane polymers as claimed, and, thus, a person of the ordinary skill in the art would be motivated to incorporate these polyurethane polymers as taught by Laurent et al. (US' 431 A1) in the dyeing composition of Cottard et al. (US' 514 A1) with a reasonable expectation of success to arrive the claimed invention and would expect such a composition to have similar properties to those claimed, absent unexpected results.

3 Claims 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cottard et al. (US 2001/0023514 A1).

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The disclosure of Cottard et al. (US' 514 A1) as described above does not teach the weight ratio between the nonionic polymers and associative polymers in the dyeing composition as claimed.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to formulate a dyeing composition comprising associative polymers and nonionic polymers with the claimed ratio because Cottard et al. (US' 514 A1) clearly teaches and disclose the amounts of cationic polymers (see page 12, paragraph, 0245) and the amounts of associative polymers (see page 16, paragraph, 0315) and wherein the amounts of these polymers are within the claimed ranges, and, thus a person of the ordinary skill would expect such a composition to have similar weight ratio between these polymers and would expect such a composition to have similar properties to those claimed, absent unexpected results.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Eisa Elhilo', is positioned above the printed name.

Eisa Elhilo
Primary Examiner
Art Unit 1751

November 7, 2005